IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 14714 of 2004

Between:
Ranga Venkata Subba Rao, S/o Veer Raju,
R/o 21-11-24, R.H.Road, Bhimavaram, West Godavari District
..... PETITIONER

AND

1 The Principal Secretary, Municipal Administration & Urban Development Department, Secretariat Buildings, Govt.of A.P.Hyderabad
2 The Director of Town & Country Planning, Govt.of A.P.Hyderabad
3 The Regional Joint Director of Town Planning, Rajahmundry
4 The Commissioner, Bhimavaram Municipality, Bhimavaram, West godavari District
5 Maragani Venkata Sivarama Prasad, S/o Apparao, Kurisetti Vare Street, 8th Ward, Bhimavaram, West Godavari District
6 Maragani Rama Venkata Satyanarayana, S/o Apparao, Kurisetti Vari Street, 8th Ward, Bhimavaram, West Godavari District
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, Order or direction, declaring the action of the respondents 1 to 3 in not taking any action against the respondents 5 & 6 in pursuance of our representations, dated 31-5-2004 & 30-06-2004 for the deviations and committed by the respondents 5 & 6 in constructions of their building situated in D.Nos.21-11-25 & 21-8-6, R.H.Road, 31st Ward, Bhimavaram, as illegal, arbitrary and capricious and violation of principles of natural justice and for a consequential order directing the respondents 1 to 4 to remove the deviated and unauthorised portions of the buildings being constructed by the respondents 5 & 6 in D.Nos.21-11-25 & 21-8-6, Rest House Road, 31st Ward, at Bhimavaram, West Godavari District and to see that the respondents 5 to 6 do construct their buildings in accordance with the approved plans.

For the Petitioner: MR.CH.DHANAMJAYA, Advocate

For the Respondents 1 to 3 : GP FOR MUNCIPAL ADMN. & URBAN DEV.

For the respondent No.4: Mr. Dantu Srinivas

For the respondents 5 and 6: Sri Duba V.Nagarjuna Babu, Advocate

The Court made the following :

ORDER:

Questioning the action on the part of the respondents 1 to 4 in not taking action against the respondents 5 and 6, who are proceedings with the construction, contrary to zoning regulations and approved plan, the present writ petition has been filed.

In the counter-affidavit filed by the fifth respondent, it is stated that the present writ petition is filed at the behest of one Sunkara Babu Rao, Councillor of 31st Ward of Bheemavaram Municipality, who was in Telugu Desam Party before the Assembly Elections and joined in Congress party after elections. Under the pressure exerted by him on the respondents 1 to 4 a notice was issued to the fifth respondent under the provisions of A.P. Municipalities Act. Questioning the same, he filed OS No.167/2004 on the file of Senior Civil Judge, Bheemvaram seeking declaration that notice issued by the fourth respondent as illegal and permanent injunction restraining the defendants from proceeding with the construction. He also obtained temporary injunction in IA No.925/2004 on 16-7-2004, and the matter was posted to 10-9-2004.

In view of the categorical statements made by the fifth respondent in his counter-affidavit, the complaint made by the petitioner that the respondent-Municipality is not taking any action against respondent No.5 and 6 for the constructions carried out contrary to the approved plan and zoning regulations cannot be countenanced, as the respondent-Municipality already initiated action under the Act by issuing necessary notice to the fifth respondent.

The writ petition is accordingly dismissed. However, it is open for the petitioner to implead himself as party defendant to the suit filed by the fifth respondent, if law permits, and work out his remedy.

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A.GOPAL REDDY,J

Dt. 21–9-2004
kmr

To
1.The Principal Secretary, Municipal Administration & Urban Development Department, Secretariat Buildings, Govt.of A.P., Hyderabad
2 The Director of Town & Country Planning, Govt.of A.P.Hyderabad
3 The Regional Joint Director of Town Planning, Rajahmundry
4 The Commissioner, Bhimavaram Municipality, Bhimavaram, West Godavari District
5. 2 CCs to the Govt., Pleader for Municipal Administration, High Court Buildings, Hyderabad (OUT).
6. 2CD copies